

IN THE COURT OF JINDER PAL SINGH,
JUDICIAL MAGISTRATE FIRST CLASS, MALERKOTLA,
(UID NO.PB00634)

CNR No.	PBSGC1-003497-2024
Case Type	CHA
Case No.	CHA/96/2024
Date of filing	05.11.2024
Date of decision	05.11.2024

State	Versus	Deepak Kumar son of Umesh Tiwari r/o near Railway Station Ward no. 2 Ahmedgarh P.S. City Ahmedgarh District Malerkotla.
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....Accused

FIR No.34 dated 12.08.2024
Under Section 61/1/14 Excise Act,
P.S City Ahmedgarh

Present: Sh. Gurpreet Singh, APP for the State.
Accused Deepak Kumar on bail, represented by Sh. NK Puri,
Adv.

JUDGMENT

1. The above named accused has been forwarded by Station House Officer, P.S City Ahmedgarh to face trial under Section 61/1/14 Excise Act.
2. Brief facts of the prosecution case are that on 12.08.2024, HC Malkit Singh along-with other police officials in connection with patrolling and checking of suspected persons on private vehicle were going from Chand Cinema Road Ahmedgarh to bridge of canal Jandali (Ahmedgarh) and when the police party reached about 50 meters behind from the under bridge, that at about 1.40 PM, one person was seen sitting along-with a plastic cane near the bushes. On seeing the police party, the said persons got perplexed and tried to ran away from there. On suspicion, the said person was apprehended by the police party and on being asked, he disclosed his

identity as Deepak Kumar son of Umesh Tiwari r/o near Raiway Station Ward no. 2 Ahmedgarh. The cane plastic was checked by smelling the same and it was found to contain country-made liquor. The said liquor was measured by putting the same into a tub and on measuring it came out to be 47 bottles of country-made liquor, out of which IO took one sample of 180 ML and converted the same into sample parcel and remaining 46³/₄ bottles of country-made liquor was converted into bulk parcel. IO sealed the case property with his seal bearing impression MS. Sample seals were separately prepared. The seal after use was handed over to SC Sukhjeet Singh. The case property was taken into possession vide recovery memos. The accused failed to produce any license or permit regarding the above said recovery. Ruqa was sent to the police station, on the basis of which FIR was registered against the accused. Site plan of the place of recovery was prepared. The accused was arrested in the present case and his personal search was conducted. The accused was put behind the bars. Statements of witnesses were recorded and after the completion of investigation challan against the accused has been presented in the court.

3. On appearance of the accused before the Court, copies of challan and other documents were supplied to the accused as relied upon by the prosecution free of costs as envisaged under section 230 BNSS. His statement also recorded in this regard.

4. After finding a prima-facie case, accused was charged under Section 61/1/14 of the Excise Act, to which he pleaded not guilty and claimed trial. Then, the prosecution was called upon to lead its evidence.

5. In order to prove its case, prosecution examined IO/HC Malkeet Singh as PW-1. Thereafter, Ld. APP for the State closed the prosecution evidence vide separate statement dated 05.11.2024.

6. Statement under Section 313 Cr.P.C. of the accused was recorded, in which all the incriminating evidence appearing against the accused was put to him, to which he admitted and pleaded that he admit his fault. The accused person also stated that he does want to lead defence evidence.

7. Learned APP for the State has argued that accused are liable to be convicted for the offence charged with in view of the prosecution evidence on record as well as admission of his guilt by accused in his statement recorded under section 313 Cr.P.C.

8. On the other hand, learned Defence Counsel has argued that since accused has admitted his guilt voluntarily, so lenient view may be taken.

9. On appreciation of arguments and sifting of evidence, the following point arise for determination :-

(1) Whether prosecution proved beyond shadow of reasonable doubt that on 12.08.2024 at about 2.00 PM, in the area of P.S. City Ahmedgarh, the above named accused was found in possession of 47 bottles of country-made liquor in a plastic cane without any permit or licence and thereby accused committed offence under Section 61/1/14 of Excise Act?

Point for Determination No.1

10. Considered. In order to prove its case prosecution examined PW-1 HC Malkeet Singh investigating officer of the present case who stepped into the witness box and deposed as per the investigation conducted by him. He also proved on record specimen seal form as Ex.P1, recovery memo as Ex.P2, ruqa as Ex.P3, site plan as Ex.P5, arrest cum intimation memo as Ex.P6, personal search memo as Ex.P7, Chemical report as Ex.P8. He also identified the accused in the Court and also proved the case property as Ex.MO1.

11. In present case in order to bring home the guilt of accused, prosecution examined PW-1 IO/HC Malkeet Singh who has fully supported and corroborated the case of prosecution. This witness has proved the relevant documents as detailed above. PW-1 IO/HC Malkeet Singh identified the accused in the Court. The FSL report Ex.P8 is on record which shows that the sample resembles country liquor. Moreover, the accused admitted his guilt vide his statement recorded under Section 313 Cr.P.C. Therefore, no more elaborate discussion is required into the matter. On account of admission made by accused in his statement u/s 313 Cr.P.C prosecution has successfully proved its case against the accused beyond reasonable doubt and thus, the point for determination is decided in favour of prosecution and against the accused. Hence, the accused is convicted u/s 61/1/14 of Excise Act. Let, he be taken into custody and be heard on quantum of sentence.

Pronounced.

Dated: 05.11.2024
Rajender Kumar
JW-II

(Jinder Pal Singh)
Judicial Magistrate Ist Class,
Malerkotla.
UID No.PB00634

QUANTUM OF SENTENCE

Present: Sh. Gurpreet Singh, APP for the State.
Accused Deepak Kumar in custody, represented by Sh. NK Puri, Adv.

12. Heard on the quantum of sentence. Learned APP for the state argued that accused could not produce his valid licence or permit when he was apprehended with the alleged country-made liquor bottles and this causes a loss to state exchequer. He also argued that vice of alcohol is dangerous to society and convict deserves to be punished.

13. Learned counsel for the convict pleaded that convict is the only bread winner of his family and is the first offender and as such, benefit of probation be bestowed upon him.

14. Keeping in view the antecedents of the convict and nature of the case, I have come to the conclusion that ends of justice shall be fully met, if convict is afforded an opportunity to come to the path of rectitude. As such, the convict is ordered to be released on probation subject to his furnishing of probational bonds for period of six months in the sum of ₹ 10,000/-, without any surety with the undertaking that he will not commit breach of peace or do any act that may occasion breach of peace or do any such similar offence. He will maintain good behavior to the government and to all citizens of India during the said period. In default thereof he will be liable to deposit a sum of ₹ 10,000/- in favour of government. It is also stipulated that in case of violation during probation of six months, he will appear and receive sentence as and when he be called upon to do so. Probation bonds furnished, which are accepted and attested. Convict is also directed to deposit ₹ 200/- as cost of litigation. Cost of litigation paid. Case

property, if any, be disposed of/dealt as per rules after lapse of period of appeal/revision or the outcome of the same, as the case may be. File be consigned to the record room.

Pronounced.

Dated: 05.11.2024

Rajender Kumar

JW-II

(Jinder Pal Singh)

Judicial Magistrate Ist Class,

Malerkotla.

UID No.PB00634

This judgment contains 06 pages and every page has been signed by undersigned.

(Jinder Pal Singh)

Judicial Magistrate Ist Class,

Malerkotla.

UID No.PB00634

Present: Sh. Gurpreet Singh, APP for the State.
Accused Deepak Kumar on bail, represented by
Sh. NK Puri, Adv.

Challan presented today. Report of Ahlmad perused. It be checked and registered. Copies of challan and other documents as envisaged by the prosecution under Section 230 BNSS have been supplied to the accused free of costs. Statement of accused has been recorded in this regard.

Heard. Finding prima facie, charge for the offences punishable under Section 61/1/14 of Excise Act framed upon the accused. Contents of charge have been read over and explained to the accused in simple Punjabi language, to which accused pleaded not guilty and claimed trial.

PW-1 HC Malkeet Singh is present and examined. Ld. APP for the State has closed the prosecution evidence by making statement. Statement of accused under Section 313 Cr.P.C. recorded. Accused did not opt to lead her defence evidence.

Arguments heard. Vide my separate judgment of even date, the accused has been convicted and released on probation, as stated therein. Cost of litigation paid. Case property be disposed of as per rules, after expiry of period of appeal/revision, if any preferred against this judgment. Copy of judgment be given to accused, free of costs. File be consigned to the record room.

Dated: 05.11.2024
Rajender Kumar
Stenographer-II

(Jinder Pal Singh), PCS
Judicial Magistrate Ist Class
Malerkotla, UID No.PB0634